

Application No. 10/792,102
Amendment. Dated January 23, 2007
Reply to Office Action of October 31, 2006

REMARKS

Reconsideration of the above mentioned application is hereby requested in view of the above amendments and remarks that follow.

Claims 1-26 are pending in this application, however, claims 8-10, 18-20 and 23-26 have been withdrawn from consideration in a previously indicated restriction requirement.

Claims 1-5, 12-15 and 21 are rejected under 35 USC §102(b) as being anticipated by Mirmiran, et al., U.S. Patent No. 6,123,485.

Claims 11 and 22 are rejected under 35 USC §103(a) as being unpatentable over Mirmiran, et al. in view of Kahil, U.S. Patent Application Publication No. 2002-0177663.

Claims 2-7 and 12-17 are rejected under 35 USC §103(a) as being unpatentable over Hubble et al., U.S. Patent No. 6,409,433.

Rejection Under 35 USC §102(b) of Claims 1-5, 12-15 and 21

The Examiner rejected Claim 1 under US Patent No. 6,123,485 and indicated that it discloses an elongate composite pole comprising a structural elongate member (30) having outer tubular member (34) defining an elongate closed area; and a strengthening material substantially filling the elongate closed area (38, FIG. 1C; col. 4, line 55); and an outer casing (34) comprised of a deformable composite material deposited on the outside of the outer tubular member (FIG. 1; col. 4, lines 51-52).

However, the disclosure of US Patent No. 6,123,485 indicates that the exterior shell (12) is a filament wound shell and provides several benefits, namely, provides a form for the concrete core (18); protects as a sealer or membrane against environmental effects such as corrosion; axially reinforces the member (10); and is

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shear reinforcement for the member (10) itself. The reason for this construction is for the replacement of steel structural supports in coastal areas such as for use with concrete bridge-type columns (See col. 1, lines 19-35). This structure is described with respect to FIG. 3A in col. 5, lines 63 through col. 6, line 6 as a multi-layered tube having a inner ply of longitudinal axial fibers (310) and outer ply of circumferential hoop fibers (315) or a layer of axially longitudinal fibers sandwiched between an inner layer of circumferential hoop fibers and an outer layer of circumferential hoop fibers.

Rather in Applicants' invention, a composite pole is provided having an elongate structural member having an outer tubular member defining an elongate closed area. A strengthening material fills the elongate closed area and has an outer casing comprised of a deformable composite material deposited on the outside of the outer tubular member.

Mirmiran, et al. does not show an outer casing comprised of a deformable composite material which is deposited on the outside of the outer tubular member. As mentioned above, Mirmiran, et al. discloses some type of hoop fibers to structurally reinforce the column. As mentioned in the specification, Applicants have applied the deformable material in order to permit the spikes of a utility worker to grip the deformable material in order to ascend the pole, see paragraph 25. Therefore, Applicants believe that Mirmiran, et al. does not anticipate Claim 1 as the hoop fibers as shown therein would not allow the deformation as required by Claim 1.

As for Claim 12, Applicants have amended Claim 12 to include the limitation that the outer casing is comprised at least in part by ground rubber particles. As mentioned above, Mirmiran, et al. includes structural wound hoop fibers which are not deformable in the sense of the Claim 1 and 12 limitations.

The Examiner also rejected Claims 11 and 22 under 35 USC §103 as being unpatentable over Mirmiran, et al. in view of Kahil, US Patent Application Publication

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2002-0177663. The Examiner indicated that Mirmiran discloses the elongate composite pole of Claims 1 and 21 but does not show an outer casing comprised of the composite material of 40% by volume polyethylene and 60%-40% by volume ground rubber particles but instead discloses that the outer casing can be formed from combinations of fiber and resin. Kahil, rather, discloses a combination of polyethylene resin of ground rubber particles for use in poles and other injection molded or extruded products. Applicants submit that the disclosure of Mirmiran, et al. would absolutely teach away from the addition of a deformable composite on the exterior surface as Mirmiran, et al.'s teaching is to use the outer wound hoop fibers to add structural integrity to the pole, and to use the outer fibers as an environmental deterrent for use with bridges. Plus the addition of a composite structure such as that shown in Kahil would not be obvious in view of the teaching of Mirmiran, et al.

Finally, the Examiner has rejected Claims 2-7 and 12-17 under 35 USC §103(a) as being unpatentable over Hubble, et al. Applicants respectfully disagree with this assessment as Hubble, et al. has nothing to do with a composite telephone pole of the present claimed construction. Rather, Hubble, et al. has a exterior component A which is referred to as a friction coating which in some cases is provided by a matrix of sand and resin, and in other cases by a mixture of resin and crushed rock. (See. col. 9, lines 60 - col. 10, line 4). In fact, the outer coating in Hubble, et al. is for an exact opposite purpose as the deformable composite as provided in the present invention. More particularly, the friction material in Hubble, et al. is provided on the portion which extends into the ground to provide a friction coating with various types of soil conditions, namely sand and/or bog as described in Hubble, et al.

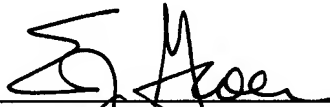
Rather, the exterior deformable composite material on the outside of the telephone pole of the present invention is used for the purpose of that portion of the pole which extends from the ground up, not from the ground down, as in Hubble, et al.

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As described above, the composite deformable material is mainly used for the purpose of providing an exterior surface which can be climbed by a utility worker. For this reason, Applicants believe that no such additional composite material added to Hubble, et al. would be an obvious combination.

For all the foregoing amendments and remarks, Applicants believe that all pending claims are now allowable. As Applicants believe that Claim 1 is allowable as a generic claim, Applicants respectfully request the reconsideration of Claims 8-10 and 18-20 to depend from generic Claims 1 and 12.

Respectfully submitted,



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Date



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